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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Claim of **RUSSELL RUETZ**,

Plaintiff,

vs.

SANTA MONICA COMMUNITY COLLEGE DISTRICT, a municipal corporation; **SANTA MONICA COLLEGE POLICE DEPARTMENT**, an operating department thereof; **ALBERT VASQUEZ**, individually and as Police Chief; **KURT TRUMP**, individually and as Acting Chief/Sergeant; **SHERYL AGARD**, individually and as Secretary to the Chief of Police; **JENNIFER JONES**, individually and as Secretary; **TARA CRITTENDEN**, individually and as Dispatcher,

Defendants.

Case No.: CV11-03921 JAK (Ex)

**JOINT SCHEDULING
CONFERENCE REPORT
PURSUANT TO FRCP RULE 26 (F)
AND REPORT OF THE PARTIES
EARLY MEETING**

[F.R.C.P. Rule 12b(6) and (e)]

DATE: August 1, 2011
TIME: 1:30 p.m.
COURTROOM: 750

Honorable John A. Kronstadt
U.S. District Court Judge

1 TO THE HONORABLE JOHN A. KRONSTADT, UNITED STATES
2 DISTRICT COURT JUDGE:

3 Pursuant to Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure,
4 and this Court's June 16, 2011 Order, counsel for the parties submit this Joint
5 Scheduling Conference Report. This report is made following an early meeting of
6 counsel which took place on July 11, 2011, as required by Federal Rules of Civil
7 Procedure, Rule 26, and this Court's order. Parties will exchange documents
8 within fourteen (14) days pursuant to U.S. Central District Court Rules.

9
10 **A. BRIEF SUMMARY OF CASE**

11 ***PLAINTIFF'S STATEMENT:***

12 Plaintiff, a Santa Monica Community College police officer, has filed an
13 action against the District for violations of his First Amendment rights and for
14 reverse race discrimination, retaliation and harassment. Particularly, Plaintiff
15 claims that he pioneered the police officers union and was elected to
16 Parliamentarian in or about 2010. Plaintiff also claims that since the start-up of the
17 union, Plaintiff has undergone retaliation from Defendants for his active role and
18 participation in union activities.

19 Plaintiff also alleges that Defendants placed an illegal "gag order" on him,
20 which estopped Plaintiff from participating in union activity, estopped Plaintiff
21 from acting as Parliamentarian and estopped Plaintiff from communicating with
22 co-workers and friends.

23 As for Plaintiff's race discrimination allegations, Plaintiff alleges that he
24 endured harassment, retaliation and discrimination from Defendants because of his
25 Caucasian race. Plaintiff endured comments such as "white boy", "f**ing cracker",
26 "blue-eyed white devil" and more. Plaintiff and Plaintiff's co-workers, on two
27 separate occasions, complained of discrimination against Plaintiff. Defendants
28 responded with "[Plaintiff] deserves it" and did absolutely nothing to rectify the

1 discrimination. Also, just a short month after Plaintiff complained of
 2 discrimination, he was placed on “administrative duty”, where he was forced to
 3 perform demeaning tasks like cleaning, and was also forced to report to the same
 4 exact Defendants who had made the discriminatory remarks to Plaintiff.

6 **DEFENDANT’S STATEMENT**

7 Plaintiff, RUSSELL RUETZ, is a Santa Monica Community College
 8 District (“SMCCD”) police officer, who has filed a civil action against SMCCD;
 9 its Chief of Police Albert Vasquez; former SMCCD Sergeant Kurt Trump;
 10 SMCCD Secretary to the Chief of Police, Sheryl Agard; SMCCD Secretary
 11 Jennifer Jones; and SMCCD Dispatcher Tara Crittenden. Officer RUETZ is
 12 alleging that he was subjected to discrimination on the basis of his race
 13 (Caucasian), retaliation, harassment, and for violating his civil rights under the
 14 First and Fourteenth Amendments when SMCCD placed him on administrative
 15 leave with an alleged “gag order,” whereby plaintiff was instructed not to contact
 16 members of the SMCCD Police Department or SMCCD employees without
 17 permission.

18 **1. Federal Claim**

19 Defendants contends that plaintiff’s federal claim has nothing to do with a
 20 violation of his rights to speech and association, but instead concerns his
 21 administrative leave and a criminal investigation that was instituted by the Santa
 22 Monica Police Department (“SMPD”) involving Officer Ruetz. While the
 23 investigation was being conducted, the plaintiff was given a qualified directive to
 24 refrain from contacting members of the SMCCD Police Department and other
 25 College employees, unless he obtained permission from SMCCD Police Chief,
 26 Dr. Albert Vasquez. This was done to avoid interference with the City’s ongoing
 27 investigation. Thus, there was no “gag order.”
 28

1 **2. State Law FEHA Claims**

2 Defendants dispute the plaintiff's allegations and contend that Officer
3 Ruetz's state law discrimination claims are time barred as the asserted conduct
4 giving rise to plaintiff's charges transpired in 2008, despite the fact that plaintiff's
5 complaints with the California Department of Fair Employment and Housing
6 ("DFEH") were not filed until May of 2010.

7 Moreover, the actions of the defendants in this case are not the result of any
8 discriminatory animus. Plaintiff's conduct as a police officer has been called into
9 question since 2008. This has subjected him to numerous warnings, reprimands,
10 and investigations. Defendants contend that Officer Ruetz filed the instant lawsuit
11 in an effort to gain leverage in his ongoing administrative proceedings that have
12 been instituted to address his conduct, or misconduct, some of which have
13 resulted in the institution of disciplinary action. In addition, defendants believe
14 that plaintiff has made assertions against several of the females in this action to
15 counter complaints of discrimination and harassment that were previously leveled
16 against the plaintiff.
17

18 **B. Subject Matter Jurisdiction**

19 The Court has subject matter jurisdiction over the federal question claim
20 pursuant to 28 U.S.C. § 1331. The Court can exercise its supplemental
21 jurisdiction over plaintiff's state law claims under 28 U.S.C. § 1367.

22 **C. Legal Issues**

23 Plaintiff's First Amended Complaint asserts claims against all defendants
24 for state law discrimination, retaliation, harassment, as well as a claim for the
25 alleged failure of SMCCD to take corrective action relative to Officer Ruetz's
26 complaints. Plaintiff has also pled a federal claim for violation of 42 USC §1983
27 for the alleged violation of his right to free speech and association because of
28

1 Chief Vasquez's qualified directive concerning his communications with SMCCD
2 police officers and employees during SMPD's criminal investigation.

3 The state law claims involve statutory violations of California Government
4 Code § 12940 et. seq. As noted above, defendants dispute these claims and
5 contend that they are both procedurally deficient and substantively defective. The
6 First Amended Complaint is presently the subject of a pending Motion to Dismiss
7 and/or Motion for More Definite Statement relative to setting forth the actual
8 dates and facts underlying the plaintiff's claims. The hearing on this matter is
9 scheduled for August 1, 2011. Should the complaint survive, defendants will
10 respond and assert the appropriate affirmative defenses.

11 In addition, defendants believe that the subject of at least two of the
12 incidents giving rise to plaintiff's "harassment" claims are presently the subject of
13 an pending administrative action and, therefore, defendants assert that plaintiff has
14 not yet exhausted his administrative remedies prior to initiating the instant
15 lawsuit. Moreover, it also imminent that the gravamen of plaintiff's federal claim
16 and alleged "gag order" will also be the subject of a future administrative action,
17 and is thus not ripe for litigation at this juncture.

18 **D. Parties and Non-Party Witnesses**

19 The following are a list of potential witnesses' relative to the plaintiff's state
20 and federal claims:

21 SMCCD Officer Russell Ruetz, SMCCD, Police Chief Dr. Albert Vasquez,
22 former SMCCD Sgt. Kurt Trump, SMCCD Sgt. Raymond Bottenfield, SMCCD
23 Sgt Jere Romano, SMCCD Sgt. Charles Bay, Officer Ron Marable, Officer Steve
24 Hearn, Officer Alberto Echeverria, Officer Brown, Officer Cesar Becerra, Officer
25 Mark Kessler, Officer Willie Malone, Officer Louie Ornelas, Officer Michael
26 Champagne, Retired Dispatcher, Frank Vargas, PEO Micahl Mitchell, PEO Linda
27 Hernandez, PEO Tom Adshade, PEO Ron Valdez, PEO Juan Virgen, PEO
28

McLeandon, Dispatcher Tara Crittenden, Dispatcher Kathy Kerce, Administrative Secretary Jennifer Jones, Sasha Agard; City of Santa Monica Police Department, SMPD Det. Lambert, SMPD Sgt. Saul Rodriguez, SMPD Sgt. Moroso, SMPD Officer Greer, SMPD Officer Ortiz, SMPD Officer Paez, SMPD Officer Mitchell, SMPD Officer Jaeno, Vanessa Thornton, and Judy Penchansky.

E. Damages

Defendants deny that they have damaged plaintiff in any manner. However, plaintiff is seeking damages which include: back pay, front pay, lost wages, future damages, damages under §1983, emotional damages, attorneys' fees, costs of suit, punitive damages, general damages, special damages and any other damages which Plaintiff is entitled to under the law.

F. Insurance

Defendant SMCCD is self-insured and carries excess coverage through its JPA SWACC. Plaintiff is uninsured.

G. Motions

Defendants anticipate filing a Motion for Summary Judgment/Adjudication and may file a Motion to Stay Proceedings for Plaintiff's Failure to Exhaust his Administrative Remedies. It is also possible that a Motion to Bifurcate may be filed depending on the evidence that is produced in the discovery process in this case. The motion cut-off date shall be June 30, 2012.

H. Manual for Complex Litigation

Neither party believes that any part of the procedures of the Manual for Complex Litigation will be required in this case.

I. Status of Discovery

Neither party requests or anticipates a need to change any rules relating to disclosures under Rule 26(a), and the parties have agreed to initial disclosure date of July 25, 2011.

\\

1 The parties do not feel that discovery conducted in phases would be
2 particularly helpful with respect to this case.

3 The parties believe that plaintiff's ongoing administrative proceedings in
4 contesting disciplinary action taken against him may delay some discovery if the
5 proceedings are not concluded in a timely fashion, because they involve other
6 governmental agencies who may not produce documents in a timely fashion.

7 The parties have just served their initial written discovery.

8 **J. Discovery Plan**

9 The parties believe that discovery should be conducted as provided for in the
10 Federal Rules of Civil Procedure and that there is presently no need for other
11 limitations or alterations to those rules.

12 Plaintiff anticipates conducting approximately 8 depositions in this matter at
13 this time. The depositions will be focused on to the facts relative to the plaintiff's
14 discrimination, harassment and retaliation claims, as well as the alleged gag order
15 and its potential affect on plaintiff.

16 The defendants anticipate conducting the depositions of the plaintiff, as well
17 as any percipient witnesses. There could be 10-20 depositions depending upon the
18 nature and extent of the events, including facts, underlying plaintiff's claims. The
19 defendants will also conduct discovery relative to the plaintiff's alleged damages.

20 **K. Discovery Cutoff**

21 The parties request a discovery cutoff of April 21, 2012.

22 **L. Expert Discovery**

23 The parties request an initial expert discovery exchange date of April 30,
24 2012. The parties request an rebuttal expert discovery exchange date of May 30,
25 2012. The expert discovery cut-off of will be June 22, 2012.

26 **M. Dispositive Motions**

27 Defendants intend to a file a Motion for Summary Judgment during the
28 pendancy of this case.

1 **N. Settlement**

2 To date, no settlement discussions have occurred between the parties. The
3 parties request Settlement Procedure Number 2 from the ADR form filed
4 concurrently herewith (attorney selected from the attorney settlement officer
5 panel). The settlement conference shall be concluded by June 15, 2012

6 **O. Trial Estimate**

7 The parties estimate that trial will require seven to ten court days. Trial will
8 be by jury. Plaintiff anticipates calling approximately 10 witnesses for the trial of
9 this matter regarding the incidents and events giving rise to the discrimination and
10 civil rights claims. The defendants will call the necessary witnesses to rebut the
11 plaintiff's claims and to support their affirmative defenses; however, at this time,
12 the defendants do not have an estimate of how many witnesses this will require.

13 **P. Trial Counsel**

14 Trial Counsel for the Plaintiff will be Michael McGill and Carolina
15 Veronica Diaz.

16 Trial Counsel for Defendants will be Louis Dumont and Jill Babington.

17 **Q. Independent Expert or Master**

18 The parties do not anticipate the need for the appointment of any
19 independent expert or master in this case.

20 **R. Timetable**

21 See attached. Trial date shall be August 21, 2012. Status Conference
22 Regarding Exhibits shall be August 17, 2012. The Pre-Trial Conference shall be
23 August 6, 2012.

24 **S. Other issues affecting the Status or Management of the Case**

25 \\

26 \\

27 \\

28

1 As noted above, there is present one and may be additional administrative
 2 proceedings arising out of discipline issued in connection with the events giving
 3 rise to plaintiff's claims. The pending administrative action has apparently been
 4 ongoing for more than a year and has not been completed.

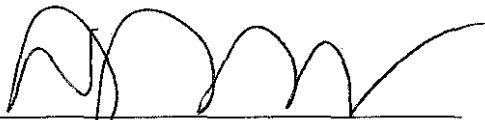
5 **T. Rule 26(a) Disclosures.**

6 The parties met and conferred regarding their initial disclosures during their
 7 Early Meeting of Counsel.

8 The parties are preparing their initial disclosures and anticipate they will
 9 have done so before the scheduling conference.

11 LACKIE, DAMMEIER & MCGILL

14 DATED: July 19, 2011

13 
 15 MICHAEL MCGILL
 16 CAROLINA VERONICA DIAZ
 17 Attorneys for Plaintiff,
 18 RUSSELL RUETZ

19 DATED: July 21, 2011

20 CARPENTER, ROTHANS & DUMONT

21 By: 

22 LOUIS R. DUMONT
 23 JILL BABINGTON
 24 Attorneys for Defendants,
 25 SANTA MONICA COMMUNITY
 26 COLLEGE DISTRICT, a public entity, and
 27 CHIEF ALBERT VASQUEZ, SHERYL
 28 AGARD, JENNIFER JONES, and TARA
 CRITTENDEN, public employees

SCHEDULE OF PRETRIAL AND TRIAL DATES

Case No.:	CV11-03921 JAK (Ex)
Case Name:	Claim of RUSSELL RUETZ, Plaintiff v. SANTA MONICA COMMUNITY COLLEGE DIST., et al.

Matter		Plaintiff(s) Request	Defendant(s) Request	Court Order
[<input checked="" type="checkbox"/>] Jury Trial [] Court Trial: (Tuesday at 9:00 a.m.)		8-21-12	8-21-12	
Duration Estimate: 7 - 10 days				
Status Conference re Exhibits: (Friday at 3:00 p.m.)		8-17-12	8-17-12	
Friday before the trial date				
Final Pretrial Conference: (Monday at 1:30 p.m.)		8-6-12	8-6-12	
2 weeks before the trial				
Status Conference re Settlement: (Monday at 1:30 p.m.)		7-15-12	7-15-12	
30 days before the cut-off date				
Matter	Weeks Before Trial	Plaintiff(s) Request	Defendant(s) Request	Court Order
Last Date to Amend Pleadings/Add Parties				
Non-Expert Discovery Cut-Off	16	4-21-12	4-21-12	
Expert Disclosure (initial)	15	4-30-12	4-30-12	
Expert Disclosure (rebuttal)	11	5-30-12	5-30-12	
Last Date to Conduct Settlement Conference	10	6-15-12	6-15-12	
Expert Discovery Cut-Off	8	6-22-12	6-22-12	
Last Date to Hear Motions	8	6-30-12	6-30-12	

Settlement Procedure Selection (ADR-01):
 1. Magistrate Judge
 2. Attorney Settlement Officer Panel
 3. Outside ADR/Non-Judicial